

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

In re: BAIR HUGGER FORCED AIR  
WARMING DEVICES PRODUCTS  
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

**ORDER**

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Genevieve Zimmerman, for Plaintiffs.  
Ben Hulse, Tom Goss, Mary Young, and Monica Davies, for Defendants.

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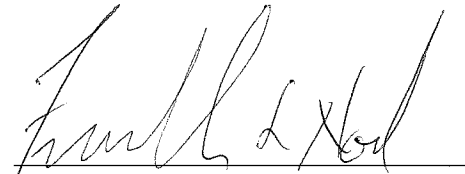
**THIS MATTER** came before the undersigned United States Magistrate Judge on March 12, 2018, on Plaintiffs' motion to compel (ECF No. 1106), and Defendants' motion for a protective order (ECF No. 1114).

During the hearing, the parties agreed with respect to the bellwether repopulation pool, that irrespective of challenges to Bair Hugger product placement or use, the same group of cases are available to both sides to designate as a potential bellwether case, and if in fact at the end of the parties' respective nominations cases remain that are subject to a product placement or use dispute, the Court will entertain those disputes at that time. As to Defendants' request for a protective order, the Court concludes that the time for discovery has closed, and the state of the record is clear regarding the facts: J.P. Abraham's 2017 article was published at the direction of the editor-in-chief of Numerical Heat Transfer: An International Journal of Computation and Methodology without further review or comment from others skilled in the field of computation fluid dynamics. Accordingly, Plaintiffs' Rule 45 subpoena to depose W.J. Minkowycz, Ph.D., is quashed.

Based on the foregoing, and all of the files, records, and proceedings herein, **IT IS HEREBY**

**ORDERED** that Plaintiffs' motion to compel (ECF No. 1106) is **DENIED as moot** with leave to refile pending the parties' respective bellwether designations. Defendants' motion for a protective order (ECF No. 1114) is **GRANTED**.

DATED: March 12, 2018

  
FRANKLIN L. NOEL  
United States Magistrate Judge